

*City of Las Vegas*

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - ZON-32168 - APPLICANT: P'S AUTO SALES -

OWNER: BEARD FAMILY TRUST

---

**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.**

**ZON-32168 - Staff Report Page One**  
**January 22, 2009 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Rezoning from C-1 (Limited Commercial) to C-2 (General Commercial) on 0.55 acres located at 3920 West Sahara Avenue. The subject site is an existing commercial building which was recently utilized as an Auto Repair Garage, Minor. In addition to this application, the applicant has submitted a request for a General Plan Amendment (GPA-32167) to change the General Plan designation from SC (Service Commercial) to GC (General Commercial), a Special Use Permit (SUP-32548) to allow Motor Vehicle Sales (Used) with a Waiver to allow a 23,900 square-foot lot where 25,000 square feet is the minimum required and a Major Amendment to an approved Site Development Plan Review (SDR-32549) for a proposed Motor Vehicle Sales (Used) Establishment.

The surrounding properties to the north, south, east and west are all zoned C-1 (Limited Commercial) with General Plan designations of SC (Service Commercial). Staff finds that this proposal meets the Title 19.20.020 definition of "Spot Zoning", which is, "Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the General Plan." The proposed Rezoning and associated General Plan Amendment (GPA-32167) will result in the subject property being zoned in isolation from other similarly zoned parcels, and the intensity of uses that will be permitted within the proposed C-2 (General Commercial) zone will be much more intense than those currently permitted under the C-1 (Limited Commercial) zone; therefore, staff recommends denial of this request.

**BACKGROUND INFORMATION**

<i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i>	
c. 1965	The existing structure at 3920 West Sahara Avenue was constructed.
11/15/95	The City Council approved a Variance (V-0136-95) to allow a 14-foot by 48-foot Off-premise Advertising (Billboard) Sign where such use is not permitted in a C-C (Neighborhood Commercial Center) zone. The Board of Zoning Adjustment recommended denial of this request.
05/27/97	The City Council approved a Rezoning (Z-0029-97) from C-C (Neighborhood Commercial Center) to C-1 (Limited Commercial) at 3920 West Sahara Avenue. The Planning Commission and staff recommended approval of this request.
01/17/01	The City Council approved a Required Five-Year Review [V-0136-95(1)] to allow a 14-foot by 48-foot Off-premise Advertising (Billboard) Sign where such use is not permitted in a CC (Neighborhood Commercial Center) zone. The Board of Zoning Adjustment made no recommendation due to a conflict of interest, staff recommended approval of this request.

DC

**ZON-32168 - Staff Report Page Two**  
**January 22, 2009 - Planning Commission Meeting**

07/17/02	The City Council approved a Special Use Permit (U-0053-02) to allow a Minor Automotive Repair Facility located at 3920 West Sahara Avenue. The Planning Commission and staff recommended approval of this request.
12/05/02	The Planning and Development Department administratively approved a request for a Site Development Plan Review (SDR-1167) for the conversion of an existing Retail building for use as a Minor Automotive Repair Facility on 0.55 acres located at 3920 West Sahara Avenue.
05/12/04	A Code Enforcement complaint (#14751) was issued against 3920 West Sahara Avenue for signage violations. The case was resolved 10/26/04.
09/13/04	A Code Enforcement complaint (#21525) was issued against 3920 West Sahara Avenue for a vehicle for sale on the subject property. The case was resolved 09/13/04.
04/19/06	The City Council approved a Required Two-Year Review (RQR-11432) of an approved Variance (V-0136-95) which allowed a 40-foot tall, 14-foot x 48-foot Off-Premise Advertising (Billboard) Sign where such use was not permitted at 3920 West Sahara Avenue. The Planning Commission and staff recommended approval of this request.
12/17/08	A Code Enforcement complaint (#72824) was issued against 3920 West Sahara Avenue for graffiti, signage, weeds, and landscape violations. The case is still open pending resolution.
01/08/09	The Planning Commission will consider a request for a Required Review of an approved Variance (V-0136-95) for a 40-foot tall, 14-foot x 48-foot Off-Premise Sign (Billboard) where such use was not permitted at 3920 West Sahara Avenue.
<b><i>Related Building Permits/Business Licenses</i></b>	
12/21/95	A building permit (#95885147) was issued for the installation of a 14-foot x 48-foot Off Premise Advertising (Billboard) Sign at 3920 West Sahara Avenue. The permit received final approval on 02/20/96.
01/16/03	A building permit (#03000927) was issued for the installation of a sign (Tag #06611) at 3920 West Sahara Avenue. The permit received final approval on 01/27/03.
01/23/03	A Non-Work Certificate of Occupancy (#03000658) was issued at 3920 West Sahara Avenue.
03/20/03	A business license (#G02-00652) was issued for minor automotive/brake repair at 3920 West Sahara Avenue. The business license was marked out on 12/11/08.
<b><i>Pre-Application Meeting</i></b>	
11/14/08	A pre-application meeting was held with the applicant to discuss the submittal requirements for a General Plan Amendment, Rezoning, Special Use Permit and a Site Development Plan Review to allow a proposed Motor Vehicle Sales, Used business were addressed.

**ZON-32168 - Staff Report Page One**  
**January 22, 2009 - Planning Commission Meeting**

<i>Neighborhood Meeting</i>	
12/10/08	<p>A neighborhood meeting was held at the Palace Station Hotel and Casino, 2nd floor Training Room, 2411 West Sahara Avenue, Las Vegas, Nevada 89102. There was one representative of the applicant, one member of Planning and Development Staff, the Ward 1 Councilwoman and Liaison, and six members of the general public in attendance.</p> <p>The applicant explained the proposed change in the use of the property, and the associated requirement for a General Plan Amendment and Rezoning.</p> <p>Questions and comments from the public were as follows:</p> <ul style="list-style-type: none"> <li>• Concerns were raised about patrons test driving vehicles in the residential neighborhood to the north of the subject site. The applicant responded that they were amenable to restrictions on test drives and would also support right-turn restrictions from the property onto Las Verdes Street in order prevent commercial traffic from entering the residential neighborhood.</li> <li>• Concerns were raised about vehicular traffic and the fact that the property is along a route children use to walk to school, and that there is also a day care center north of the subject property. The Ward 1 Liaison noted that Las Verdes Street has been selected for pedestrian improvements under the "Safe Routes to School" program.</li> <li>• A question was raised regarding whether there would be limits on the number of cars on display. It was suggested that a restriction of approximately 10-12 cars as a condition of approval might be appropriate.</li> <li>• A resident asked if there would be adequate parking for patrons on site; the applicant responded that the code requires adequate parking for customers in addition to the space used for vehicle display.</li> <li>• A question was asked as to the age of the vehicles that would be sold; a concern was noted over the aesthetics of having numerous older vehicles stored on the property. The applicant stated that she didn't know the average age of the vehicles, but stated that the zoning code did not allow the storage of inoperative or "junked" vehicles under the proposed use category.</li> <li>• A resident asked if the existing buildings were going to be demolished for the new business; it was explained that the existing buildings would remain in place.</li> <li>• A question was raised as to whether repairs would be done on site; the applicant explained that minor repairs would be done in order to prepare the vehicles for sale, but that this was not to be an automotive repair facility.</li> </ul> <p>The general consensus among the residents was that the use would not be obtrusive as long as restrictions were put in place to prevent test drives in the residential neighborhood, and that it would be better to have the site occupied rather than sitting vacant.</p>

**ZON-32168 - Staff Report Page Four**  
**January 22, 2009 - Planning Commission Meeting**

<b>Field Check</b>	
12/17/08	A field check was performed by staff at the subject property. The site was noted as a vacant commercial building with weeds and debris on site. Some faded parking lot striping was noted, the building contained a non-permitted temporary sign (banner) and a dead tree was observed in the western landscape buffer. Additionally the site was noted to be in violation of Conditions #1 and #2 of Site Development Plan Review (SDR-1167), which required the rooftop mechanical equipment to be screened and a trash enclosure to be built on site.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	0.55

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Vacant	SC (Service Commercial)	C-1 (Limited Commercial)
North	Office	SC (Service Commercial)	C-1 (Limited Commercial)
South	General Retail Stores	SC (Service Commercial)	C-1 (Limited Commercial)
East	General Retail Stores	SC (Service Commercial)	C-1 (Limited Commercial)
West	General Retail Stores	SC (Service Commercial)	C-1 (Limited Commercial)

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Area Plan</b>		X	N/A
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District (200 Feet)	X		Y*
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

\* The subject property is located within the North Las Vegas Airport Overlay Map within the 200-foot height limitation contour. The existing building on the subject property does not extend beyond this limitation.

**ZON-32168 - Staff Report Page Five**  
**January 22, 2009 - Planning Commission Meeting**

## **ANALYSIS**

The subject site is located in the Southeast Sector of the 2020 Master Plan and has a current General Plan designation of SC (Service Commercial). A General Plan Amendment (GPA-32167) to change the designation to GC (General Commercial) has been submitted along with the Rezoning request. The General Commercial category generally allows retail, service, wholesale, office and other general business uses of a more intense commercial character. These uses may include outdoor storage or display of products or parts, noise, lighting or other characteristics not generally considered compatible with adjoining residential areas without significant transition. Examples include new and used car sales, recreational vehicle and boat sales, car body and engine repair shops, mortuaries, and other highway uses such as hotels, motels, apartment hotels and similar uses. The General Commercial category allows Service Commercial uses, and may also allow Mixed-Use development with a residential component where appropriate.

This is a proposal to Rezone the site from C-1 (Limited Commercial) to C-2 (General Commercial). The proposed C-2 (General Commercial) zoning district is designed to provide the broadest scope of compatible services for both the general and traveling public. This category allows retail, service, automotive, wholesale, office and other general business uses of an intense character, as well as Mixed-Use developments. This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses. The C-2 (General Commercial) district is also appropriate along commercial corridors. The C-2 (General Commercial) district is consistent with the General Commercial category of the General Plan.

The surrounding properties to the north, south, east and west are all zoned C-1 (Limited Commercial) with General Plan Designations of SC (Service Commercial). Staff finds that this proposal meets the Title 19.20.020 definition of "Spot Zoning", which is, "Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the General Plan." Because the applicant's proposal for a Rezoning to the C-2 (General Commercial) zoning district for a proposed Motor Vehicle Sales (Used) establishment cannot be accomplished without resulting in the subject parcel being zoned in isolation from the adjacent C-1 (Limited Commercial) zoned properties to the north, south, east and west, staff recommends denial of this request.

## **FINDINGS**

In order to approve a Rezoning application, pursuant to Title 19.18.040, the Planning Commission or City Council must affirm the following:

- 1. "The proposal conforms to the General Plan."**

**ZON-32168 - Staff Report Page Six**  
**January 22, 2009 - Planning Commission Meeting**

The proposed GC (General Commercial) land use designation on the subject parcel currently designated as SC (Service Commercial) is not compatible with the existing SC (Service Commercial) properties that surround the subject site. The increase in the intensity of uses creates an incompatibility with the surrounding properties; therefore staff recommends denial of this request and the affiliated companion items.

- 2. “The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.”**

Although the requested C-2 (General Commercial) zoning district is the appropriate zoning district for the proposed GC (General Commercial) land use designation, this commercial district is incompatible with the surrounding C-1 (Limited Commercial) zoned properties to the north, south, east and west. The uses permitted by the proposed Rezoning will be much more intense than the planned surrounding land uses.

- 3. “Growth and development factors in the community indicate the need for or appropriateness of the rezoning.”**

Growth and development factors in the community do not indicate the need or appropriateness of the proposed rezoning. The proposed Rezoning will result in the subject property being in isolation from other similarly zoned parcels and will create an undesirable precedent for future similar Rezoning for the surrounding land uses and nearby neighborhoods.

- 4. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.”**

Access to the site is provided by Sahara Avenue, a 100-foot Primary Arterial as designated by the Master Plan of Streets and Highways. Las Verdes Street, a 51-foot Local Street, as designated by the Master Plan of Streets and Highways provides secondary access to the subject site. Although Rezoning the subject property to a C-2 (General Commercial) zoning district will intensify the land use and associated vehicular traffic, the existing street facilities are adequate in size to meet the requirements of the proposed zoning district.

**ZON-32168 - Staff Report Page Seven**  
**January 22, 2009 - Planning Commission Meeting**

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 15

**ASSEMBLY DISTRICT** 3

**SENATE DISTRICT** 11

**NOTICES MAILED** 303

**APPROVALS** 0

**PROTESTS** 7